

Amy Baggio, OSB #011920
amy@baggiolaw.com
Baggio Law
621 SW Morrison, Suite 1025
Portland, OR 97205
Tel: (503) 222-9830
Fax: (503) 274-8575

Attorney for Defendant O'Shaughnessy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Case No. 3:16-cr-00051-BR

Plaintiff,

v.

**AMMON BUNDY, JON RITZHEIMER,
JOSEPH O'SHAUGHNESSY, RYAN
PAYNE, RYAN BUNDY, BRIAN
CAVALIER, SHAWNA COX, PETER
SANTILLI, JASON PATRICK, DUANE
LEO EHMER, DYLAN ANDERSON,
SEAN ANDERSON, DAVID LEE FRY,
JEFF WAYNE BANTA, SANDRA LYNN
PFEIFER ANDERSON, KENNETH
MEDENBACH, BLAINE COOPER,
WESLEY KJAR, COREY LEQUIEU,
NEIL WAMPLER, JASON CHARLES
BLOMGREN, DARRYL WILLIAM
THORN, GEOFFREY STANKE, TRAVIS
COX, and ERIC LEE FLORES**

**JOINT STATUS REPORT ON
TIMING & SEQUENCING OF
MOTIONS**

Defendants.

The defendants, through Amy Baggio, and the government, through AUSA Craig Gabriel, submit the following Joint Status Report On Timing And Sequencing Of Motions, in accordance with the Court's Order of March 9, 2016 (Docket No. 285, Sealed).

CERTIFICATION OF CONFERRAL: Undersigned counsel certifies that Assistant United States Attorney Craig Gabriel was provided a copy of, and consulted regarding the content of, this Joint Status Report On Timing And Sequencing Of Motions. Both the defense and government positions are set forth below.

I. Defendants' Requests

A. Groupings For Trial

Per the Court's order, the defendants are hereby attempting to set out a case schedule that is as reasonable as possible under the circumstances. However, the defendants wish to reserve the right to request an earlier trial date, a later trial date, or revisions to the motions schedule (such as adding additional motions or foregoing motions place-marked in the chart below), depending on subsequent or intervening events, including but not limited to, a second superseding indictment, review of discovery, motion practice, specific grounds for severance, rulings on defendants' detention status, or by virtue of any other intervening event that requires an amendment of the schedule as necessary to provide a fair trial and constitutionally sufficient representation as required by the Sixth Amendment.

Based on the Superseding indictment and discovery provided to date, the defendants wish to revise their requested trial groupings to the following:

Group A – Trial in September 2016 – Def. #1, Ammon Bundy (Arnold & Casey); Def. #3, Joseph O'Shaughnessy¹ (Baggio); Def. #4, Ryan Payne (Hay & Federico); Def.

¹ Because counsel for Joseph O'Shaughnessy has been unable to have any communication with him since on March 3, 2016, when he was arrested in Phoenix, Arizona, on the Nevada

#5, Ryan Bundy² (Self-Represented, Ludwig as Stand-By); Def. #6, Brian Cavalier (Bofferding); Def. #8, Peter Santilli (Coan); Def. #9, Jason Patrick (Kohlmetz); Def. #11, Dylan Anderson (Kauffman); Def. #12, Sean Anderson (McHenry); Def. #16, Kenneth Mendenbach (Self-Represented, Schindler as Stand-By); Def. #17, Blaine Cooper (Shipsey); Def. #18, Wesley Kjar (Halley); Def. #20, Neil Wampler (Maxfield); Def. #22, Darryl Thorn (Shertz); and Def. #23, Geoffrey Stanek (Andersen).

Group B – Trial in January 2017: Def. #19, Cory Lequieu (Pagan).

Group C – Trial in April 2017: Def. #2, Jon Ritzheimer (Wood); Def. #7, Shawna Cox (Harris); Def. #10, Duane Ehmer (Audet); Def. #13, David Fry (Olson); Def. #14, Jeff Banta (Salisbury); Def. #15, Sandra Anderson (Baaker); Def. #21, Jason Blomgren (Rainwater); and Def. #25, Eric Flores (Warren).

Group D – Trial TBD: Def. #24, Travis Cox (Hood) and Def. #26, Jake Ryan (Merrithew), neither of whom has been arrested or arraigned.

B. Requested Case Litigation Schedules

1. Defendant's "Group A" Requested Litigation And Trial Schedule

Round/Mot	Deadline	Description
1.A	Mot: 4/28/16 Resp: 5/12/16 Hrg: TBD	Defendants' Motions To Dismiss The Indictment (Facial Challenges) <i>(Approximately Four Different Motions)</i>
1.B	<i>Same as 1.A</i>	Defendants' Motion For Bill Of Particulars

indictment, Ms. Baggio can make no representations for Mr. O'Shaughnessy's behalf other than to articulate his wishes as of their last communication. Undersigned counsel seeks leave to update Mr. O'Shaughnessy's position after consulting with her client.

²² Ryan Bundy originally requested placement in the group of defendants proceeding to trial in September. Stand-by counsel was unable to consult with him prior to this filing on the specific question of whether he continues to desire a trial date in the first setting and requests leave to update his position at the April 6, 2016, status conference.

Round/Mot	Deadline	Description
1.C	<i>Same as 1.A</i>	Defendants' Motion To Dismiss For Lack Of Jurisdiction
1.D	<i>Same as 1.A</i>	Defendants' Motion To Strike Surplusage
1.E	<i>Same as 1.A</i>	Defendants' Motion To Dismiss For Speedy Trial Violations
1.F	<i>Same as 1.A</i>	Defendants' Motion To Dismiss For Due Process Violations
2.A	Mot: 6/16/16 Resp: 6/30/16 Hearing: 7/7/16	Defendants' Motions Related To Disputed Discovery Issues
2.B	<i>Same as 2.A</i>	Defendants' Motion To Change Venue
2.C	<i>Same as 2.A</i>	Defendant's Motions To Challenge Discovery
2.D	<i>Same as 2.A</i>	Defendants' Motion To Dismiss For Destruction Of Evidence
2.E	<i>Same as 2.A</i>	Defendant's Motions To Suppress Evidence Obtained In Violation Of The Fourth Amendment (Search & Seizure Motions)

Round/Mot	Deadline	Description
2.F	<i>Same as 2.A</i>	Defendant's Motions To Suppress Evidence Obtained In Violation Of The Fifth Amendment (<i>Miranda</i> Challenges)
2.G	<i>Same as 2.A</i>	Defendant's Motions To Suppress Evidence Obtained In Violation Of The Sixth Amendment (Right To Counsel, Fair Trial Challenges)
2.H	<i>Same as 2.A</i>	Defendants' Motion(s) To Sever
2.I	<i>Same as 2.A</i>	Defendants' Motion(s) For Jury-Related Process Issues (Questionnaires, Etc.)
2.J	<i>Same as 2.A</i>	Defendants' Motion(s) Related To Grand Jury Problems
2.5	<i>Same as 2.A</i>	Defendants' Motion To Dismiss For Selective Prosecution
Pretrial Hearing Items	Mot: 8/4/16 Resp: 8/18/16	Defendant's First Round Of Motions For Pretrial Determination Regarding Appropriate Jury Instructions
	8/4/16	Defendant's First Round Of Motions In <i>Limine</i> (404(b) Motions, Disclosure Of Witnesses
	8/4/16	Simultaneous Filing Of Defense & Government Trial Memoranda, Expert Disclosures, Proposed Jury Instructions, Remaining Motions

Round/Mot	Deadline	Description
	8/18/16	Motion To Exclude, Or Limit, Testimony Of Government Experts Pursuant To <i>Daubert v. Merrell Dow</i> And Request For Hearing
	9/1/16	Pretrial Conference
	9/6/16	Begin Jury Selection
	9/13/16	Trial - Government case approximately five weeks - Defense case approximately two weeks

2. Requested Case Litigation Schedules For Remaining Groups

Defendants who have not requested placement in “Group A” respectfully request for additional time in which to review discovery, conduct legal research, and generally prepare their cases before they submit a strict schedule for litigation. Several defendants (perhaps all) who do not seek a trial in September request the opportunity to participate in the motions litigation as set out in the “Group A” proposed schedule.

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II. Government's Position As To Requested Litigation And Trial Schedules For Defendants

The government has no objection to the proposed schedule as set forth for "Group A"; however, the government believes that at this time, all defendants should be set for trial on September 6, 2016. While multiple trials may ultimately be necessary in this case, pretrial negotiations and motion litigation should precede any motions to sever filed pursuant to Fed. R. Crim. P. 14(a).

Respectfully submitted on March 23, 2016.

/s/ Amy Baggio

Amy Baggio, OSB #011920

503-222-9830

Attorney for Defendant O'Shaughnessy